HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO :26062 of 2007

Dated 6th December, 2007

Between
Sagar Enclave Residential Welfare Association,
Biramalguda village, Saroornagar Mandal,
RR District, rep. By its President D.Raji Reddy

…Petitioner

and

The Prohibition & Excise commissioner,
Government of AP, Hyderabad, and, ors

…Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 26062 of 2007

ORDER:

The petitioner, a Residents Welfare Association, has filed this Writ Petition seeking Writ of Mandamus to declare the action of the respondents 2 to 4 in proposing to permit the fifth respondent for shifting of the toddy shop from the existing licensed premises, i.e. shop bearing No.7-2-8, at Biramalguda village to Plot No.105 in Sy.Nos. 41,42,38,39 and 43 of Biramalguda village as illegal and arbitrary.

The fifth respondent-society was granted lience to sell toddy at premises bearing No. 7-2-8 of Biramalguda village. It is stated that an application was filed by thefifth respondent to shift the said toddy shop to Plot No.105 in Sy.Nos. 41,42,38,39 and 43 of Biramalguda village. It

is the grievance of the petitioner that there is already one toddy shop existing at Omkar Nagar in block No.4 of LB Nagar Municipality and another toddy shop at Karmanghat in Block No.1 of LB Nagar Municipalitiy and in view of the same, the proposed shifting of the toddy shop of the fifth respondent to the premises at Plot No.105 of Biramlaguda is contrary to the instructions issued by the Commissioner of Prohibition and Excise, dated 19-9-2007.

Heard the learned Counsel for the petitioner and the learned Government Pleader for the respondents.

If there are any existing toddy shops within the radius of two kilometers from Plot No. 105 in Sy.Nos. 41,42, 38, 39 and 43 of Biramalguda village, it is open for the petitioner to file objections. But, however, even before consideration of the application of the fifth respondent for shifting of the toddy shop from shop No.7-2-8 to Plot No.105 of Biramalguda, no direction can be issued, directing not to grant new toddy shop licence. As much as the application of the fifth respondent is still pending consideration, I dispose of the Writ Petition permitting the petitioner to file objections for the proposed shifting of the existing toddy shop from the premises No.7-2-8 to Plot No.105 of Biramalguda. If such objections are filed, the second respondent shall consider the same and pass appropriate orders. However, it is made clear that the second respondent-Licensing authority shall consider the objections of the petitioner, if any, on its own merits, un influenced by any of the observations made in this order.

Subject to the above direction, the Writ Petition is disposed of at the admission stage. No order as to costs.

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JUSTICE R. SUBHASH REDDY

DATE: 6-12-2007
Msnr.